

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DAVID LOWERY,

Plaintiff,

vs.

STATE FARM FIRE AND
CASUALTY COMPANY, et al.,

Defendants.

CIVIL ACTION NUMBER
3:07-cv-00954-MEF-CSC

**PLAINTIFF'S SECOND SUPPLEMENTAL FILING IN SUPPORT OF
PLAINTIFF'S MOTION TO REMAND**

Comes now David Lowery and hereby provides supplemental evidence in support of his motion to remand as follows:

1. On or about November 6, 2007, plaintiff filed a motion to remand in this matter.

2. The undersigned filed similar motions to remand in the cases *Ronald Kelley v. State Farm Fire and Casualty Company, et al.* and *Randall Kirk v. State Farm Fire and Casualty Company, et al.* Those cases are identical to the case at bar. Honorable W. Keith Watkins granted the undersigned's motions in these cases on November 20, 2007. The Court specifically found that the

defendants have not met their burden of proof of establishing federal jurisdiction and have remanded these cases to Circuit Court. Copies of these orders are attached hereto as Exhibits A and B, respectively.

Respectfully submitted,

s/ David J. Hodge

Bar Number: ASB-5583-L73C

Of Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on 20th day of November, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ David J. Hodge

Of Counsel

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

RONALD KELLEY,

Plaintiff,

v.

STATE FARM FIRE AND
CASUALTY COMPANY, *et al.*,

Defendants.

Case No. 3:07-cv-0958-WKW

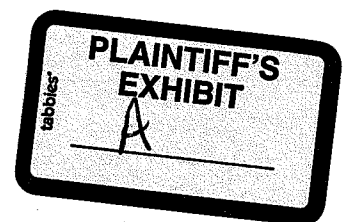
ORDER

This case is before the court on the plaintiff's Motion to Remand. (Doc. # 7.) This suit was removed from state court on the basis of diversity jurisdiction. However, the plaintiff and one of the defendants are residents of Alabama and the defendants have not met their burden of proving the joinder, or misjoinder, of the resident defendant was fraudulent. *Cabalceta v. Standard Fruit Co.*, 883 F.2d 1553, 1561 (11th Cir. 1989); *Tapscott v. MS Dealer Serv. Corp.*, 77 F.3d 1353, 1360 (11th Cir. 1996). Because the defendants have not met their burden of establishing federal jurisdiction, it is ORDERED that:

1. Plaintiff's Motion to Remand (Doc. # 7) is GRANTED;
2. This case is REMANDED to the Circuit Court of Chambers County, Alabama; and
3. The Clerk of the Court is DIRECTED to take appropriate steps to effect the remand.

DONE this 20th day of November, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

RANDALL KIRK,

Plaintiff,

v.

STATE FARM FIRE AND
CASUALTY COMPANY, *et al.*,

Defendants.

Case No. 3:07-cv-0957-WKW

ORDER

This case is before the court on the plaintiff's Motion to Remand. (Doc. # 7.) This suit was removed from state court on the basis of diversity jurisdiction. However, the plaintiff and one of the defendants are residents of Alabama and the defendants have not met their burden of proving the joinder, or misjoinder, of the resident defendant was fraudulent. *Cabalceta v. Standard Fruit Co.*, 883 F.2d 1553, 1561 (11th Cir. 1989); *Tapscott v. MS Dealer Serv. Corp.*, 77 F.3d 1353, 1360 (11th Cir. 1996). Because the defendants have not met their burden of establishing federal jurisdiction, it is ORDERED that:

1. Plaintiff's Motion to Remand (Doc. # 7) is GRANTED;
2. This case is REMANDED to the Circuit Court of Chambers County, Alabama; and
3. The Clerk of the Court is DIRECTED to take appropriate steps to effect the remand.

DONE this 20th day of November, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

